

Message Text

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ACTION IO-13

INFO OCT-01 EUR-12 ISO-00 OIC-02 L-03 AF-10 ARA-06

EA-07 NEA-10 CIAE-00 DODE-00 PM-04 H-01 INR-07

NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15 USIA-06

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FM AMEMBASSY VIENNA

TO USMISSION UN NEW YORK PRIORITY

INFO SECSTATE WASHDC PRIORITY 1589

C O N F I D E N T I A L VIENNA 3513

EO 11652: GDS

TAGS: UN PFOR WA

SUBJ: UN CONFERENCE TO THE SUCCESSION OF STATES TO TREATIES

REF: USUN 1286, STATE 075178, VIENNA 3393

1 . REFTEL REQUESTS CONTENTS OF THE PROPOSAL PUT FORWARD

BY UN COUNCIL FOR NAMIBIA. THE COUNCIL HAS SUGGESTED THE
FOLLOWING ADDITIONAL PARAGRAPHBE INCLUDED IN THE PREAMBLE
TO THE CONVENTION:

QUOTE TAKING INTO ACCOUNT GENERAL ASSEMBLY RESOLUTION
2145 (XXI) OF 27 OCT 1966, BY WHICH THE GENERAL ASSEMBLY
OF THE UNITED NATIONS TERMINATED THE MANDATE OF SOUTH
AFRICA OVER SOUTH WEST AFRICA (NAMIBIA) AND ASSUMED DIRECT
RESPONSIBILITY FOR THE TERRITORY UNTIL ITS INDEPENDENCE.
UNQUOTE

2. DELEGATION DID NOT OFFER APPRAISAL OF PROPOSED ADDITION
TO PREAMBLE BECAUSE ISSUE WHICH CONCERNED US IMMEDIATELY
WAS NOT SUBSTANCE OF PROPOSALBUT CAPACITY TO MAKE PROPOSALS
AND POSSIBILITY OF ENDEAVORS TO ALLOW NAMIBIA COUNCIL
TO SIGN FINAL ACT OR BECOME PARTY TO THE CONVENTION.

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HOWEVER WITH REGARD TO MERITS, THE PROPOSED ADDITION
APPEARS MUCH TO PARTICULARIZED FOR INCLUSION IN PREAMBLE
TO GENERAL LAW MAKING CONVENTION. IF ANY REFERENCE OF THE
CHARACTER PROPOSED HAS TO BE MADE, IT WOULD SEEM MORE
APPROPRIATE TO INCLUDE IN A RESOLUTION OF THE CONFERENCE.

3. ISSUE OF THE NAMIBIA COUNCIL VOTING OR SIGNING FINAL
ACT WILL IN ALL LIKELIHOOD NOT ARISE AT THE PRESENT

CONFERENCE HOWEVER. WE WERE INFORMED BY MEMBERS OF THE NON-ALIGNED GROUP ON EVENING OF APRIL 29 THAT GROUP WAS PLANNING TO PROPOSE TO CONFERENCE THAT DECISION BE REACHED IN PLENARY SESSION TO EFFECT CONFERENCE COULD NOT COMPLETE ITS WORK THIS YEAR AND THAT DECISIONS ON PARTICULARLY CONTROVERSIAL ISSUES SHOULD ALL BE HELD OVER TO SUBSEQUENT SESSION. THESE ISSUES WOULD INCLUDE DECISIONS ON ARTICLE 7 RELATING TO THE NON-RETROACTIVITY ASPECTS OF THE CONVENTION, THE QUESTION OF EXCLUDING ISSUES ARISING OUT OF THE EXPLOITATION OF NATURAL RESOURCES FROM THE SCOPE OF ARTICLE 12, THE SWISS GERMAN PROPOSAL FOR AMENDMENT OF ARTICLES 2 (1) (F) THE ARTICLE 33 WHICH WOULD RESULT IN TREATING ANY SEPARATION OF A STATE INTO TWO OR MORE PARTS AS EQUIVALENT TO THE FORMATION OF TWO OR MORE NEWLY INDEPENDENT STATES AND THE US DISPUTES SETTLEMENT PROPOSAL.

4. AS IT IS OBVIOUS THAT THE CONFERENCE CANNOT COMPLETE ITS WORK IN THE REMAINING WEEK AND THE REACHING OF DECISIONS ON THE OUTSTANDING CONTROVERSIAL ISSUES IS IMPOSSIBLE WITHOUT THE COOPERATION OF THE NON-ALIGNED GROUP, THERE IS NO ALTERNATIVE TO ACQUIESCENCE IN THE POSITION WHICH HAS BEEN ADVANCED.

5. INSOFAR AS THE QUESTION OF WHETHER THE COUNCIL OF NAMIBIA SHOULD BE PERMITTED TO SIGN THE FINAL ACT OF THE CONFERENCE OR TO BECOME PARTY TO THE CONVENTION, THE DELAY IS A FORTUNATE ONE. IN THE OPINION OF THE DELEGATION, THE ISSUES INVOLVED ARE NOT TECHNICAL ONES AUTHORIZING THE COUNCIL OF NAMIBIA TO SIGN THE FINAL ACT OF THE CONFERENCE COMPOSED SOLELY OF REPRESENTATIVES OF STATES
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AS THE REPRESENTATIVE OF NAMIBIA IS A DECISION THAT NAMIBIA IS TO BE TREATED AS A SOVEREIGN STATE WHICH IS IN EXISTENCE AND ENTITLED TO THE CONSEQUENCES THAT FLOW FROM SUCH EXISTENCE. THIS CONCLUSION WOULD BE REINFORCED BY AGREEING THAT NAMIBIA MAY BECOME PARTY TO THE CONVENTION.MEEHAN

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Disposition Approved on Date:
Disposition Case Number: n/a
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Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
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